

T H E
S P E E C H
O F

GEORGE PONSONBY, Esq;

I N T H E
HOUSE OF COMMONS OF IRELAND,

ON WEDNESDAY THE 3d OF MARCH, 1790

UPON THE SUBJECT OF

F I A T S.

TO WHICH ARE SUBJOINED

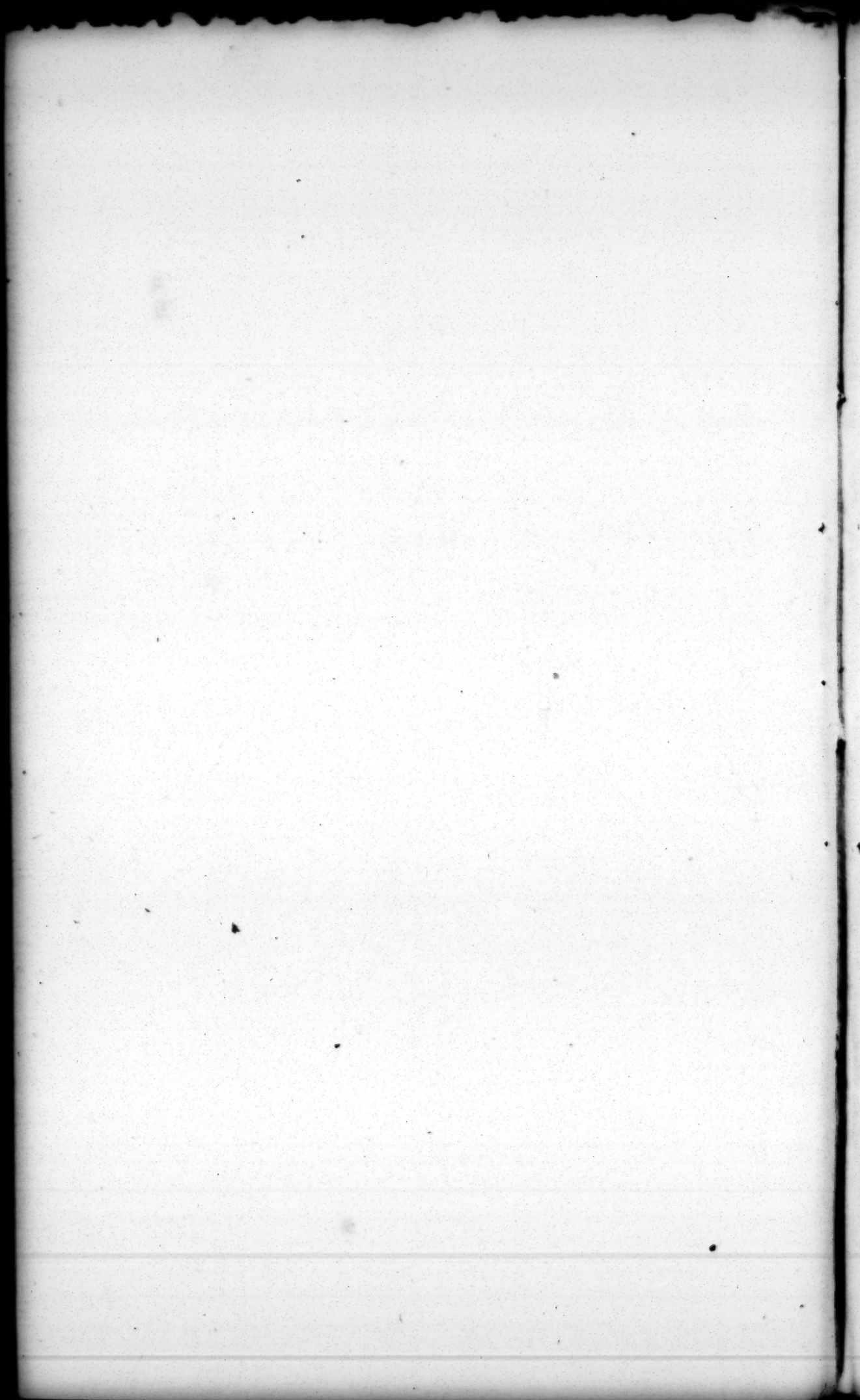
THE SEVERAL AFFIDAVITS ON WHICH SAID FIATS
WERE GRANTED AGAINST JOHN MAGEE.

D U B L I N:

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GEORGE'S-STREET.

M.DCC.XC.

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THE Affidavits and Fiats which are annexed to this Speech were laid before the House of Commons, and by the House referred to the *Grand Committee for Courts of Justice*. The Motion which was made in that Committee upon those Affidavits and Fiats was got rid of by the Attorney General's moving, that the Chairman of the Committee should leave the Chair, which Motion was upon a Division, after a long Debate, carried by a Majority of 34, the Numbers being for the Attorney General's Motion 125, against it 91.

MR. PONSONBY'S

S P E E C H.

* MR. MORRES,

I AM now, Sir, in pursuance of my engagement to the House, going to execute a task to me highly painful. I am about to desire this Committee to concur with me in a resolution to censure a practice which has lately prevailed in this country, of issuing writs, marked by the order of a Judge in his chamber, to hold defendants to bail in
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* Chairman of the Committee of Courts of Justice.

large sums of money, for their appearance in actions of slander, in cases where no specific damage has been sworn to in the affidavits upon which such writs have been ordered to issue.

THIS is a painful task ; because the reputation of men in great and eminent situations is involved, and the character of the seat of justice is concerned. But, Sir, highly as I may respect the Judges who preside on that seat, I never can respect them so highly as the Laws, as the seat of Justice, and Judicature itself.

IT will be necessary for me to take up a considerable portion of the time of the committee ; but as I shall endeavour to use no superfluous words, I hope for its indulgence. Many quotations are unavoidable on a subject of this nature ; but to save time and silence cavil, I have brought some books down with me, in order to read particular passages of them to the committee. And, Sir, as I consider my character as a gentleman of this country,

country, and as a professional man, at stake upon this motion, I hope that every professional man who may speak upon it, will feel that his character is at stake also.

SIR, by the common law, the various courts of justice had various provinces for the distribution of that law assigned to them ; the King's Bench was in its origin a court principally of criminal jurisdiction, the Exchequer was a court for the collection of the king's revenue only, and the Common Pleas was instituted for the purpose of deciding disputes arising between subject and subject in matters of property, and was a court of civil jurisdiction only. In process of time, however, it was found that the Common Pleas was incompetent to discharge all the business which arose from civil suits ; and as much of the profits of the Judges, as well as of the revenue of the Crown, depended in those days on fees, on fines and amerciaments ; the court of King's Bench very soon endeavoured to divide the empire of the law in matters of property with the court of Common Pleas.

ALL actions triable by the King's Bench, in its original and primary jurisdiction, were grounded on actual or constructive force, and are by the early writers denominated trespasses. For injuries of this nature, and which, in the language of the law, favoured of a criminal nature, that court had a peculiar process, by which the sheriff to whom it was directed was authorized to arrest the body of a defendant ; and when in the 13th year of Edward the First, the Legislature thought proper to introduce that action, known by the name of the special action of trespass on the case, the court of King's Bench, taking advantage of this word trespass, assumed the cognizance of this new species of action.

By another usurpation, equally beneficial to the public, but if possible more gross and palpable in its origin, the court of King's Bench acquired the cognizance of almost all other actions ; I mean by the practice of suffering a plaintiff to arrest a defendant for a trespass which had never been committed, and then allowing him to declare against him when
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in the custody of the marshal, for an injury, and in an action merely civil.

ALTHOUGH the court of King's Bench proceeded in this manner, it is clear it proceeded without lawful authority, and it was not until the 19th year of Henry the Seventh that a statute passed in Great Britain, expressly extending the process in an action of trespass *vie & armis*, to an action of trespass on the case; and other statutes, both antecedent and subsequent, were enacted to justify the application of that process to other civil actions; and thus positive law adopted and sanctified those convenient usurpations, in which public utility had acquiesced.

BEFORE these statutes, therefore, Sir, it is evident that actions not grounded upon force, either actual or constructive, were properly triable only in the Common Pleas; and by the common law there was no process of that court to arrest the person of a subject, in any such suit. I repeat it, Sir, the Common Pleas by common law could not make such
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an arrest; if, therefore, Sir, the court of King's Bench assumed by degrees a jurisdiction in actions not properly cognizable by it, and applied to those actions not grounded upon force the process of actions grounded upon force, it behoved, and still behoves, the Judges of that court to take great care that by the application of that process the personal liberty of the subject was not injuriously and oppressively affected. The court of Common Pleas, the court of the common law, and which my Lord Coke styles "the lock and key of the common law," knew not of arrest; it proceeded against the property, not the person of a defendant; and when both the courts began to exercise the process of arrest, for the benefit of him who sued, they were both bound to look to the common law, and to see that they caused no injury to the subject; to take care that this new power did not work oppression, and to defend the debtor from the malice or resentment of his creditor.

AFTER the issuing the writ of capias which I have mentioned, the sheriff might arrest,
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and if he did so became answerable for the appearance of the defendant. Very early, however, it became evident that an ill use might be made of this process, and that the sheriff, by demanding too high security for the appearance of the defendant, might imprison him at his pleasure.

MUCH mischief had in truth been committed; many persons had been unjustly detained, excessive bail had been demanded, and the oppression and extortion of sheriffs had thrown many innocent but indigent men into gaol. These evils, amongst others, produced the statute of the 23d of Henry the Sixth, chapter 9th, by which sheriffs were directed "to let out of prison such persons "as had been taken by writ or warrant in "any action personal." That statute made no new provision; the Legislature indeed found it necessary to interfere, and the act was passed, not because the common law was deficient, but because it had been neglected and violated; the statute was made in affirmance of the common law.

I AM not here, Sir, vainly stating my own opinion; I am not laying down the law upon any dogma of my own. No, Sir, the court of Common Pleas, filled (as ably, perhaps, as it has ever been) by my Lord Chief Justice Montague and his brother Judges, in the 4th year of Edward the Sixth, did in the case of Dive against Maningham, reported by Plowden, page 67, declare as follows, “ now this
 “ is no new provision; for the common law,
 “ which is common reason, did ever allow
 “ that such persons might be set at large, for
 “ it stands indifferent in a manner whether
 “ they are guilty or not; then if they be
 “ not guilty, and they should be restrained of
 “ their liberty, it would be a great inconvenience, which the common law would never
 “ suffer.” These are the words of Lord Chief Justice Montague, and these are words worthy of a chief justice who had studied, who knew, who loved, and who dispensed the common law; worthy of the distributor of justice, and the protector of the liberty of the people.

PERMIT

PERMIT me, Sir, now to state to the committee, that all personal actions known to the law are divided into two classes; the one founded upon contract, the other upon tort. The first class comprehends those actions to which most of the rules and doctrines which we meet in our law-books respecting bills are to be referred, and for this obvious reason, that where two persons enter into a contract, it is in general not difficult for either party to ascertain with tolerable exactness the injury he has suffered by the breach of that contract; an honest and conscientious man can swear to the value of his goods, of his time, of his labour, or his skill. If a man executes a bond, or draws a bill of exchange, and does not pay them, an honest plaintiff can swear to the amount of his debts and of his damage; and therefore in matter of contract a man may well be allowed to ascertain his damage by his oath. But not so in actions grounded upon tort, for there is no standard to judge by. If a man defames, assaults or strikes another, it is neither easy nor safe for him to swear to the amount of his damages; pride

pride and passion are dangerous conductors of the conscience; vanity and self-love are partial appraisers of our merits or our sufferings, and therefore in our law, where there is no measure of value, the action is said only to found in damages, and a jury must be impannelled to appreciate the injury, and adjudge the compensation.

In all actions of this kind, Judges have been cautious of holding defendants to bail, and most particularly so in actions of slander, which are considered as the most contemptible in the law. I say the most contemptible, because they are in general founded upon injuries the most inconsiderable. How many thousands of these actions are tried, in which the plaintiff never recovers a shilling. It is not merely to declare that a man has been abused, villified or derided. No, Sir, the law allows no man to value his own fame, his own talents, or his own integrity; a jury must do this for him, and unless he can swear to some actual injury, sustained in consequence of the slander, I look upon it as settled that he is not entitled

entitled to hold his adversary to special bail ; this actual consequent injury is called amongst lawyers a *per quod* ; as for example, an unmarried woman shall swear that a certain person uttered slanderous words of her, by which she lost her marriage ; a tradesman shall swear he lost a customer, a merchant his credit, or an attorney his client. This is a specification of actual consequent damage, this is a *per quod*, and upon such an affidavit only is a Judge warranted, as I conceive, to hold a defendant to special bail. I will quote some authorities. My Lord Chief Baron Gilbert, in the 37th page of his very learned and admired tract, the History of the Court and Practice of the Common Pleas, has these words, “ when
 “ the action is only for damages, there the
 “ party is not held to bail, unless in mayhem
 “ or some notorious battery ; and the reason
 “ is, there is no certain sum for which the
 “ caution can be ascertained ; but in may-
 “ hem, and where by the injury it is apparent
 “ that the damages will exceed the sum of
 “ 10*l.* then the Judge may by special rule hold
 “ to bail.”

My

My Lord Chief Baron Comyn, in the 483d page of the first volume of his Digest (the most able performance of its kind in our law) has (under the head of bail) these words: " But where the debt or damages in
 " an action of debt detinue trespass for
 " taking of goods, action upon the case
 " (*except for slander*) amount to 20l. special
 " bail shall be required." These words are
 surely plain and strong; but there is another
 species of slander, Sir, (generally, though per-
 haps inaccurately termed so) which is called
scandalum magnatum — This is a statutable
 offence, and partakes both of a criminal and
 civil nature, the person who is guilty of it
 being punishable by indictment as well as li-
 able to an action at the suit of the party in-
 jured. I understand it has been said that
 special bail is demandable in an action of this
 nature; if it were it would prove nothing, for
 it is not a common action of slander; but I
 will state some cases upon that head: In the
 case of the Earl of Stamford, in Sir Thomas
 Raymond's Reports, page 74, a motion was
 made, that the defendant should put in good
 bail

bail to the Earl's action ; for *although it was but for words*, said the Counsel, yet the same being spoken against an Earl, the court may compel special bail. The court granted a rule to shew cause why special bail should not be given, but a compromise took place, and no cause was ever shewn. This case occurred in the fifteenth year of Charles II. In the twenty-ninth year of the same king there happened the case of the Marquis of Dorset, reported in second Modern. His Lordship's counsel applied to the court to compel the defendant to put in special bail, but the court refused the application, saying, that in that action special bail was not demandable. I will not however deny that an instance may be produced of special bail having been ordered in an action of *scandalum magnatum*, but what I infer from these cases is, that it appears to be a settled principle of our law, that in a common action of slander, where special damage is not sworn to, special bail cannot be required.

I WILL

I WILL now, Sir, read to the committee a passage from the commentaries of the late Judge Blackstone: " Special bail is required
 " (as of course) only upon actions of debt
 " or actions on the case in trover, or for
 " money due, when the plaintiff can swear
 " that the cause of action amounts to 10l.
 " But in actions where the damages are pre-
 " carious, being to be assessed *ad libitum* by
 " a jury, as in actions for words, ejectments
 " or trespasses, it is very seldom possible for
 " a plaintiff to swear to the amount of his
 " cause of action, and therefore no special
 " bail is taken thereon, unless by a Judge's
 " order, or the particular directions of the
 " court, in some peculiar species of injuries,
 " as in cases of mayhem or atrocious bat-
 " tery, or upon such special circumstances
 " as make it absolutely necessary that the de-
 " fendant should be kept within the reach
 " of justice."

PERMIT me now, Sir, to mention (what indeed many here well know) that there are two different occasions on which bail is requirable
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in most actions : The first is, where the sheriff upon making an arrest requires bail for the appearance of the defendant ; the second, where the defendant is required to justify, as it is called, his bail, by putting in good bail to the action.

IN the cases which I have in view at present the writs were marked, and the bail was taken merely to insure the appearance of the defendant in the court out of which the writs issued, although perhaps no declaration might ever be filed against the defendant John Magee, no action tried, or if tried no damages given. At the time when this man was required to give bail to an enormous amount, it stood (in the language of my Lord Chief Justice Montague) indifferent in a manner whether he were guilty or not ; and I say, in the words of the same learned Judge, that if by this measure he has lost his liberty, “ It is a great inconvenience, “ which the common law would not allow “ of.”

IN

IN addition to the acts of Parliament which I have already mentioned, several others have from time to time been passed in Great Britain, to secure the subject against the evil of excessive bail, against the fraud, the malice, the revenge of unprincipled plaintiffs, and against the extortion and oppression of sheriffs and their subordinate officers ; and the Legislature of this country has adopted such of those laws as in its wisdom it thought fitted to the state of this country. But, Sir, I think I have said full enough to prove to the committee the anxious care with which both the common and the statute law have provided for the liberty of the subject.

THE paper which I hold in my hand contains a copy of the reasons and the orders of the court of King's Bench, as delivered and pronounced by my Lord Clonmel, in the case of John Magee. His counsel moved the court, that the order for holding him to bail for 4000*l.* at the suit of Richard Daly, might be set aside, and that his common appearance might stand, without his being held to special bail ;

bail; or, that if the court should not be pleased to grant that request, that then he might be held to bail for 500l. only; and similar motions were made in all the other cases. The court refused the whole of this motion, and refused it with costs, as is usually done in cases of litigious, ill-founded and vexatious applications. I have read this paper with great attention: I have given it to those who were of counsel in the cause, and who were present at the delivery of what it contains, and I am assured it is correct. By what I can gather from it, the court proceeded upon two grounds, the first of law, the second of practice. "And first," said the Chief Justice, "special bail has always been compelled in actions of criminal conversation, and yet in those actions there is no certain debt, nor can any man swear to the amount of the injury he has received, no bill, no bond, no contract, no certain measure of value—damages are uncertain, and rest upon the verdict of a jury. Where then is the distinction between an action of criminal conversation and an action of slander? In both the damages are precarious,

and must be assessed by a jury. In what then consists the difference?" Sir, I am ashamed that question was ever asked. I feel at this moment humiliated and degraded as a subject of a country in which the Chief Justice of the first criminal court could ask such a question. I will tell the committee where the difference lies: The act of adultery brings its own mischiefs with it, the deed is in itself injurious, and cannot be justified. Who ever heard of a justification being pleaded in bar of such an action? I speak in the hearing of many lawyers. If I mistake the law let me be contradicted now. I ask, can criminal conversation be justified? No, Sir: Who can justify adultery? or what law allows the justification of an act in itself contrary to religion and morality, and which tends to loosen all the bands which hold society together; but it is not so in slander. To an action of slander a justification may be pleaded; the truth of the words is a justification; if one man accuses another of the basest practices or the foulest crimes, and an action is brought against him for the slander he is al-
 ledged

ledged to have uttered, he may come into court and admit and justify the words by the truth of the fact. How then can these actions be compared? or in what do their natures agree?

BUT it is said (as to the second ground) "that the practice of the courts authorized the conduct of the Judge, and that in this kingdom Fiats have been universally granted, for the purpose of holding defendants to bail in actions of slander." Sir, I deny the truth of the assertion; but even admitting it to be true, it proves nothing in the present case. There are but two species of law known in this country, the common and the statute law; and I say the conduct of the Judge can be justified by neither. But the Judge would perhaps say, "the practice of the court is the law of the court." I answer, that it may, but it is not the law of the land; no practice can prevail which militates against the fundamental principles of reason, of law, and liberty. Good God, Sir! what sort of practice is that which allows a man to throw

another into gaol at his pleasure, for any sum which he may think fit to swear to! How different is such a practice from the provisions of the law! The law says, no man shall be a Judge in his own cause, no man shall be a juror in his own cause, no man shall be a witness in his own cause; but this practice says, that a man may estimate his own worth and compensate his own injuries; that he may walk into the jury-box, and assess his own damages; that he may ascend the seat of judgment, and preside at his own trial; or in other words, that any man in this community is liable to be held to bail for any sum which a spiteful, a malicious, or a vindictive adversary may swear himself intitled to. If this be indeed the practice of the courts of justice, we had better be without them.

I WILL now, Sir, state those very extraordinary affidavits which the committee have heard read by the clerk at the table. I shall begin with Mr. Daly's: he swears that he is manager and proprietor of the Theatre-Royal in this city, and that John Magee is the printer
and

and proprietor of certain newspapers; he then sets forth those verses which we have been laughing at, and says, that he is the person designed by the names of Young Roscius and Ricardo, and in order to intitle himself to the Fiat which he sought from the Judge, and to prove his damages, he swears that he " hath
 " already experienced," what! why truly the
 " *injurious tendency of these publications;*" the
 injurious tendency, forsooth! this is specific injury! this is actual damage! this is value for 4000*l.* bail, and six months imprisonment! but how does he prove, even the injurious tendency which he alledges? I will read the proof, as it is given in the affidavit: " As a
 " very eminent performer, who was retained
 " by deponent in Great Britain to act at said
 " Théâtre-Royal in this city, did, from the
 " false and scandalous publications against de-
 " fendant, *express a doubt* of deponent's
 " credit and punctuality, and that therefore a
 " large and considerable sum must be paid in
 " advance to such performer." What! you seem surprised now that the learned Chief Justice of the first law court in this kingdom
 ordered

ordered on this affidavit a writ to be marked for 4000l. and suffered the defendant to be thrown into gaol because he could not find bail to that amount. Suffer me, however, to proceed a little farther: and the deponent saith, “ *if it had not been for the immediate* “ *interference of some of deponent’s friends,* “ *then in the city of London, deponent would* “ *have been deprived of the advantage of such* “ *performer;*”—[a loud laugh]—what, now you laugh! Sir, gentleman may laugh at this affidavit, but its consequences have been serious and alarming, no such event has happened in this country since the Revolution. The affidavit goes on and states, that the deponent is convinced that he has suffered damages to the amount of 4000l.; he is convinced of it, without stating one single instance of actual and specific damage, or swearing to one single shilling of real and substantial loss. However, the Chief Justice’s conviction kept pace with the deponent’s, and he ordered a writ to issue marked for 4000l.

I WILL

I WILL now, Sir, state Brennan's affidavit : The slander which has been published of him is, in short, this, " that he kept a house of " reception for women of bad character ; " which he denies, and swears " that he is " greatly aggrieved by this slander, as numbers " of his friends and acquaintance have called " on him to mention how much deponent is " exposed and injured thereby, and to know " the reason why deponent should be charged " with such a scandalous crime, &c." and the affidavit concludes in the language of a declaration—" whereby he hath been greatly injured, and suffered damage to the amount " of 800l." How he has suffered this damage he does not mention; he gives no instances of any. I cannot find that he states any thing injurious as the specific consequence of the slander, unless we shall allow the troublesome visits and impertinent questions of his country friends and acquaintances to come within that description. However, the Chief Justice thought he had made a just estimate of his damage, and he ordered a writ to issue marked for 800l.

I PROCEED

I PROCEED to the affidavit of Frances Tracy ; in it she complains of those publications which we have heard read ; the tendency of them is to charge her with being unchaste and too intimately acquainted with a man to whom she is not married ; but she says, nay she swears, she is a modest woman ; and, like those who have gone before her, she says she is much aggrieved, and that as she is single and unmarried, she has good reason to believe that her character and reputation are totally ruined, and she rates her loss, by the destruction of them, at 1000l. She does not, indeed, swear that any man had before an intention of marrying her, and that by this slander the match was broken off and she lost the marriage ; she does not, indeed, swear positively even to the loss of her appreciated reputation, but she swears that she has good reason to apprehend and believe that she has suffered damage to the amount of 1000l. The Chief Justice participates in her apprehensions, and with more, I think, of the gallantry of a knight-errant than of the caution of a Judge, he suffered the distressed

distressed damsel to have a writ marked for the sum at which she had estimated her character and her injuries.

THE affidavit of Francis Higgins, which was ordered by the house to be laid before it, I cannot state, because it has not been returned; a practice it seems prevailed in the King's Bench, of not compelling a plaintiff to file the affidavit on which a marked writ issues, unless the defendant puts a rule upon him to shew cause of bail: however, the fact is, that upon that affidavit a writ issued marked for 2000*l*. These different sums amount to 7800*l*. and because the defendant has not been able to find bail for this so great a sum, he has been thrown into that jail in which he lies at present; but in what predicament did this man stand when these writs were issued against him? He was at that time the subject of a criminal information, exhibited and granted against him at the relation of Francis Higgins, one of the plaintiffs in these very suits. The information had actually gone against him, and

and in this situation, with his credit shaken and his character blemished, he is held to bail for 7800*l*. Mr. Morres, let every man who hears me make the case his own; how few are there, even of us, the most considerable gentlemen of this country, who could in such a situation find bail to such an amount? the man of the best fortune amongst us, if that fortune be under settlement, might feel himself distressed to obtain it; and yet, upon the affidavits which I have stated, a poor printer with a criminal information hanging over his head, is held to this enormous bail; and because he is unable to procure it, is torn from his business and his family, deprived of his liberty, and thrown into jail. The history of these countries scarcely furnishes an instance of similar oppression. I hold in my hand that act of parliament which is commonly called the Bill of Rights; in that memorable act, the parliament asserted and secured the rights and liberties of the people before they settled the succession of the crown; and in their enumeration of the different crimes for which they adjudged James

to

to have forfeited the government, they reckon as one, " the requiring of excessive bail in " criminal cases, in order to elude the benefit " of the laws made for the liberty of the " subject," and therefore, bail demanded in crimes which affect the property, the liberty, or the life of the subject, which affect the public peace and the tranquillity of the government itself, must now be moderate.

TURN, Sir, your eyes to what is at this moment passing in Westminster Hall, and you will see in a strong and a striking instance the mild and benignant spirit of our law. Mr. Hastings, impeached by the Commons of England at the bar of the House of Lords: Mr. Hastings, accused of the deepest and the blackest crimes, of rendering the very name of Englishmen hateful through all the regions of the East, and of almost destroying the British government in India; Mr. Hastings, charged as the plunderer and extirpator of nations, to what amount do you think the Lords have demanded bail from the sureties of Mr. Hastings?

things? You will scarcely believe it, but it is true; to the amount only of 10,000l. each! and yet in Dublin a poor Printer is called upon to find bail for 7800l. Two and twenty hundred pounds distinguish the surety of the Governor-General of Bengal from the surety of the Printer of the Dublin Evening Post!

Who will defend this conduct? Crown lawyers cannot defend it, their character is at stake; but whatever they may advance, I will premise this, I have shewn the resolution in my hand to almost every lawyer of my acquaintance in the Four Courts, except the gentlemen in office, and I declare upon my honor, that I have not found one who disagrees to the proposition it contains; and therefore the law servants of the crown will, I am sure, as well for their own character as for the sake of justice and the right of the subject, be guarded in the doctrines they shall advance to-night.

LET

LET me mention one fact which had almost escaped my memory. Looking as I do upon the court of Common Pleas to be the great depositary of the common law, I have enquired what is the rule there with regard to actions of slander : I find it to be that " special bail is not demandable." Common bail, of which Lord Coke gives an instance, so early as the reign of Henry the Third, and which instance proves it to have been even then an ancient usage, is alone to be demanded. John Doe and Richard Roe are the only sureties whom John Magee ought to have tendered. But even supposing that special and substantial bail were requirable, every man must agree in the excessiveness of that which was actually demanded. But, Sir, perhaps I shall be told that I am acting unwarrantably, that I seek to degrade, in the opinion of the publick, those exalted personages who are to administer the laws and distribute justice to the people. Sir, I feel as sincere and as profound a respect for the judges of this land as any man who lives within it. I venerate as highly the majesty of
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the laws, and the sanctity of the judicial character. I am much concerned in the preservation of the peace and the continuance of the prosperity of this country, and would not rashly do an act which might tend to lessen the Bench in the eyes of the nation, to render the people less obedient to the law, or incline them to entertain seditious notions. But, Sir, a Judge is but a man, and man may err. A Judge is indeed elevated, but he may be ignorant; he may be experienced, but he may be corrupt; he may be learned, but he may be feeble, languid and unresisting; or he may be old, and he may doat. England has formerly seen such Judges; her parliaments have punished such Judges, but let us hope that neither country will ever see such Judges again. However, Sir, as every man is liable to the infirmities of our unhappy nature, I must think that the conduct of the Judges (however venerable their office) should always be observed by Parliament with great, though respectful, attention.

PARLIAMENT is now indeed peculiarly bound to attend to the distribution of justice, for the Judges are no longer removeable at the pleasure of the crown ; and a circumstance attends the orders of which I complain, which makes it impossible for the grievance to be removed except by Parliament. These orders are made upon motions in a court of law ; no writ of error lies from an order so made, no process in the nature of appeal, the order is peremptory, final, and conclusive. If indeed it were a judgment, a writ of error would lie, and the defendant might take the opinion of another, and a superior court ; but here he has no appeal, no hope of redress. The order stands, however erroneous ; the defendant is remediless, however oppressed. No power on earth but Parliament can stop the repetition of this evil ; an evil without precedent, against law, disgraceful to this country, and most injurious to a man as much entitled to the blessings of personal liberty as you who hear me, or as he who ordered the writs which im-
prison

prison him to be issued ; and therefore I shall move you,

“ That it is the opinion of this committee,
“ that the issuing of writs by the order of a
“ JUDGE, to hold defendants to bail in large
“ sums of money in actions of slander, where
“ no actual and specific damage is sworn to in
“ the affidavits upon which such writs are issued,
“ is, as the same hath been practised of late,
“ ILLEGAL AND SUBVERSIVE OF THE LIBERTY
“ OF THE SUBJECT.”

HAVING proposed this resolution, I shall anticipate an objection which may be made to it : it will, I presume, be argued, that I have urged the committee to come to an improper, unconstitutional vote, and that we have no right to interfere with the sentence of a court of justice. Sir, the principles of the constitution, the inherent powers and primary duties of the House of Commons, refute this assertion. The grand inquest of the nation can
never

never exert its authority to a better purpose, than to guard the subject against the perversion of law, and the illegal exercise of judicial power; but I will not rely wholly upon the principles of the constitution and the rights of the House of Commons. I will briefly state two, out of a variety of precedents which might be quoted in support and illustration of the doctrine I advance: the first is, the resolution of the House of Commons of England in the fourth year of the reign of Charles the First, respecting the conduct of the court of King's Bench, in refusing to bail persons committed by the general warrant of the King or Privy Council; the House did not hesitate to declare its sense in opposition to the conduct of the court; and by three resolutions, equally consonant to law and liberty, asserted the freedom of the subject and the law of the land, in contradiction to the acts of slavish, corrupt and arbitrary judges. This instance is directly in point. The protection of personal liberty was as much the object of those resolutions as

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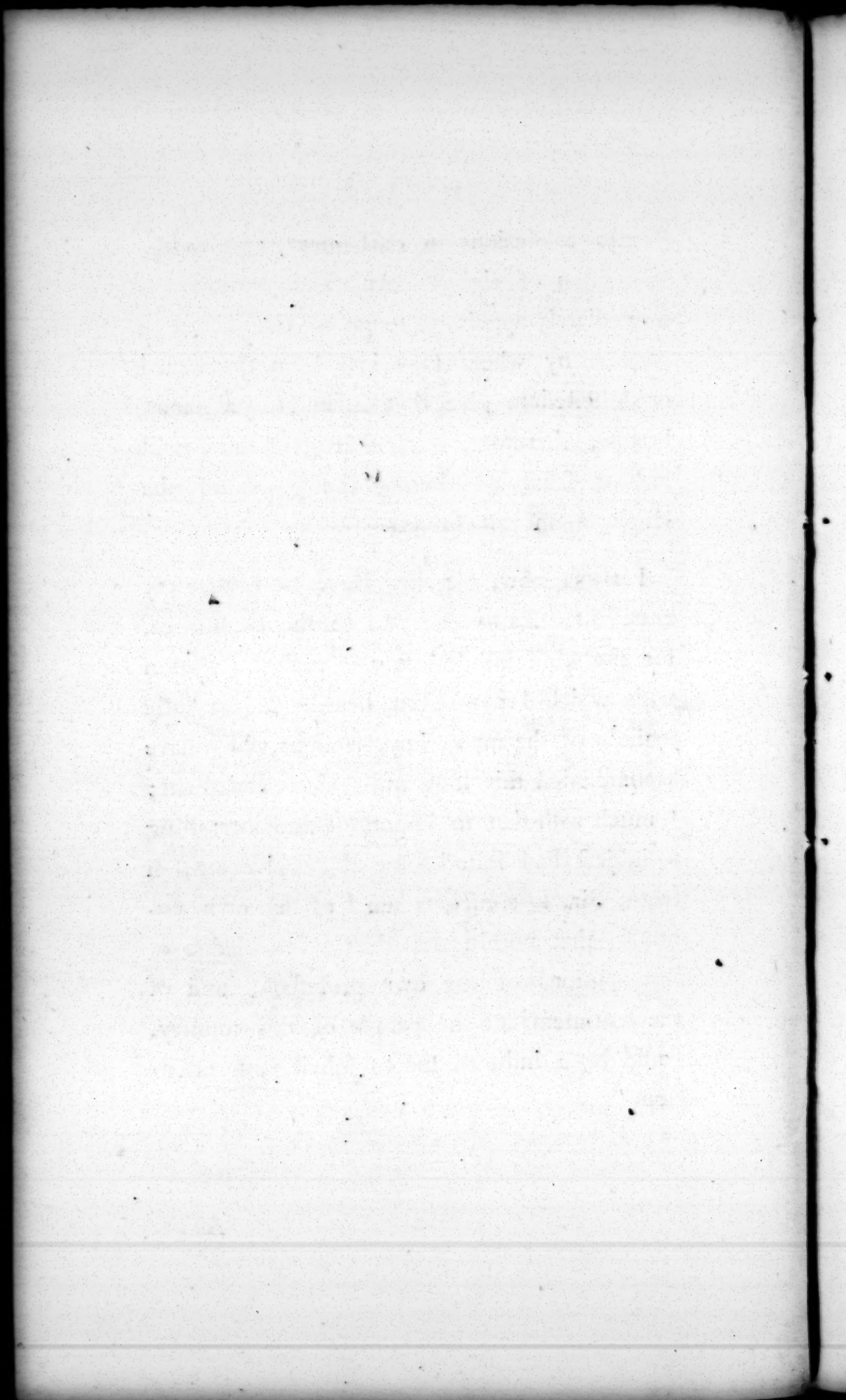
it

it is of that which I have had the honour to propose to this committee.

THE second precedent which I shall mention is the famous one of ship-money. We all know that the payment of the imposition so called had been compelled for four successive years, and that its legality was first regularly and in due course of law disputed by the immortal Hampden. We all know too that a great majority of the judges gave judgment against Mr. Hampden, and in favour of the legality of the tax. As soon, however, as Parliament was suffered to sit, the House of Commons of England entered into the consideration of this subject, and instead of expressing a doubt of its power, the House unanimously voted “ that the judgment in the Exchequer in Mr. Hampden’s case, in the matter and substance thereof, and in that it was conceived that Mr. Hampden was any way chargeable, was against the laws of the realm, the right of property, the liberty of the subject, and contrary to former
“ mer

“mer resolutions in Parliament, and to the
 “petition of right.” And a committee was
 immediately appointed to go to the judges to
 enquire by whom they had been threatened
 or solicited to give that infamous judgment.
 I hope, therefore, Sir, that gentlemen will
 forbear from questioning the power of the
 House upon this subject.

I MUST now, Sir, beg leave to return my
 grateful thanks to you and to the committee,
 for the kind indulgence and patient attention
 with which I have been heard. I am fully
 sensible of the many imperfections which have
 accompanied this long and tedious statement;
 I much wish that so important and interesting
 a subject had found some abler advocate; in
 truth, Sir, so conscious am I of my own un-
 fitness, that nothing less than a knowledge of
 the opinions of my own profession, and of
 the sentiments of the people of this country,
 could have induced me to solicit your atten-
 tion.



A F F I D A V I T S.

The Affidavit of John Brennan.

JOHN BRENNAN, Gent.
Plaintiff.

JOHN MAGEE, of the
city of Dublin, printer of
the newspapers called *The*
Dublin Evening Post and
Magee's Weekly Packet,
Defendant.

THE plaintiff, John
Brennan of Kilmacud in the
county of Dublin, maketh
oath, that he hath formerly
resided in Aungier-street in
the city of Dublin, and car-
ried on in an extensive
manner the business of a
grocer with a fair and ho-

nest character. Saith that deponent having acquired in his
trade a capital sufficient, as deponent conceived, to enable
deponent to retire from business and live privately (having
no children), this deponent, who is far advanced in years,
did accordingly take a farm contiguous to the city of Dub-
lin, where deponent's connections lay, known by the name
of the town and lands of Kilmacud, in the county of Dub-
lin,

lin, where deponent has for some years past and yet does reside. Saith that there was inserted and published in a certain newspaper, entitled The Dublin Evening Post, and dated the 28th day of May last, of which newspaper the said defendant John Magee of the city of Dublin, lottery-office keeper, is the proprietor and printer, as this deponent is informed and verily believes, several paragraphs highly reflecting on the character and reputation of Francis Higgins of Stephen's-green, Esq; And also that he the said John Magee, to whom this deponent is an entire stranger, did insert or cause or permit to be inserted in the aforefaid newspaper called The Dublin Evening Post, the false, scandalous, malicious and defamatory printed words following, of and concerning this deponent :

“ Little Andre, the figure dancer, was wonderfully affected by the horrid contorsions of the Sham (meaning, as this deponent is informed and verily believes, the said Francis Higgins)—the last glimmer of an expiring snuff feebly twinkled—the ghastly white eye-balls rolled as if presumptuously daring to implore mercy—mercy, while conscience—conscience—smote the breast, and organized the bloated frame, and made death—horrible—most horrible.—Tracy was sent for express—she was found at Brennan's at Kilmacud, (meaning at the house of this deponent). Gracious heaven!—this poor man (meaning deponent) oppressed, distressed and deserted—in the day of need—the hour of trouble—all—all—gone—Nay, his very habitation (meaning the habitation of this deponent) converted into a receptacle for the prostitutes of the Sham! Will not a day of retribution come for all this accumulation of villainy! Enormity at which the blood runs cold! Humanity starts back appalled! Oh! that we
“ had

“ had a Fitz Gibbon judge !—then—then would not longer
 “ the Newgate felon—the murderer of wretched parents—
 “ the betrayer of virgin innocence—the pestiferous and
 “ polluted defiler of the marriage bed—sham his fate, and
 “ defy the—laws of God and man !”

By which said false, scandalous, malicious and defamatory
 printed words aforesaid this deponent is pointed out by
 name ; and also that he this deponent, through trouble or
 distress, admits his house to be converted into a receptacle
 for prostitutes, and for entertaining of women of infamous
 character ; and deponent saith that there is no other person
 whatsoever of the name of Brenan living at or keeping a
 house at Kilmacud aforesaid but deponent ; and this depo-
 nent saith he never did keep a house for the entertainment
 or reception of prostitutes for the said Francis Higgins or
 for any other person or persons whatsoever, nor would this
 deponent keep, harbour or entertain any person or persons
 whatsoever whom he knew or believed to be of improper
 character ; nor did he the said Francis Higgins keep in or
 make any such receptacle of deponent's house. Saith that
 a young woman of fair reputation and good character, of the
 name of Tracy, did some short time before reside along
 with her aunt in deponent's house, but this deponent saith
 that she the said Tracy is known to be of fair and irre-
 proachable character and conduct, and was not kept by any
 person or persons, or under such repute at deponent's resi-
 dence, or at any other place whatsoever, to deponent's
 knowledge, hearsay or belief ; and this deponent saith, that
 notwithstanding said John Magee must well know that the
 said herein-before recited false, scandalous, malicious and
 defamatory printed words aforesaid must materially preju-
 dice

dice and injure deponent in his credit and character, yet said John Magee, in furtherance of his malice to deponent, and aided, as deponent believes, by some malicious-minded person or persons living in deponent's neighbourhood near Kilmacud, and to gratify their unjust resentment against deponent, as deponent hath reason to believe, did insert or cause or permit the aforesaid before-recited false, scandalous, malicious and defamatory words to be inserted and published in another certain newspaper, entitled Magee's Weekly Packet, whereof said John Magee is the proprietor and printer, on Saturday the 13th day of May last past; and this deponent saith, that by deponent being so charged by name with keeping a receptacle for prostitutes, deponent is greatly aggrieved, as numbers of deponent's friends and acquaintances have called on deponent to mention how much deponent is exposed and injured thereby, and to know the reason why he deponent should be charged with such scandalous crime; as also of deponent being reduced and drove to poverty, his all being gone, as is falsely suggested by said false, scandalous, malicious and defamatory printed words, so published by said defendant John Magee in said two several newspapers against deponent, who is far advanced in life, and never before was charged with any crime or offence; and which was so done against deponent by the said defendant John Magee, out of wantonness and malice, to ruin deponent's character and credit, whereby and by means of such scandalous, false, malicious and defamatory printed words aforesaid of and concerning deponent, he this deponent hath been greatly injured and suffered damage to the amount of 800l. sterling; and saith the said defendant John Magee being a lottery-office broker, and the owner of said two newspapers, which are reputed

and

and deemed to be very productive and of great value, is reputed to be a person in opulent circumstances.

Sworn before me this 4th day of June, 1789,
EARLSFORT.

JOHN BRENAN.

CHARLES LINDSAY, attorney for the plaintiff.

Let a writ issue at the plaintiff's suit against the defendant in this cause, marked eight hundred pounds,

EARLSFORT.

Received 23th June, 1789.

The Affidavit of Frances Tracy.

FRANCES TRACY, spinster,
Plaintiff.

JOHN MAGEE of the
city of Dublin, printer of
the newspapers called The
Dublin Evening Post and
Magee's Weekly Packet,
Defendant.

THE plaintiff, Frances Tracy of the city of Dublin, spinster, maketh oath, that this deponent's parents died some time ago, leaving deponent a property, and to which deponent added very considerably by deponent's labour and industry, with a fair and honest character in business. Saith that this deponent being much impaired in her health went with deponent's aunt, Mrs. Christian Hamill, in the month of August last, to reside at the house of Mr. John Brennan at Kilmacud

cued in the county of Dublin, where this deponent continued until very lately. Saith that there was inserted and published in a certain newspaper called The Dublin Evening Post, and in another newspaper entitled Magee's Weekly Packet, of which said newspapers the said defendant John Magee of the city of Dublin, lottery-office keeper, is the proprietor and printer, as this deponent is informed and verily believes, and in which said newspapers were published several paragraphs highly reflecting on the character and reputation of Francis Higgins of Stephen's-green, Esq; as deponent verily believes; and saith that he the said John Magee, to whom this deponent is an entire stranger, did insert or cause or permit to be inserted in the aforesaid newspapers called Magee's Weekly Packet and The Dublin Evening Post, several false, scandalous, malicious and defamatory paragraphs, of and concerning deponent, one of which said paragraphs was printed and published in said newspaper called The Dublin Evening Post on the 19th day of May last, and is of the following tenor and effect:

" The following letter was found yesterday morning in
 " one of the walks of Stephen's-green —It is copied
 " verbatim from the original, which may be seen, and
 " is now in the possession of Miss Andre: It is generally
 " imagined it dropped from the pocket of Miss Tracy
 " of Kilmacud (meaning this deponent, as deponent verily believes), who was observed in town the evening
 " before on a visit to his worship the justice, in whose
 " hands are the issues of life and death.

" Darkey

" Darkey Kelly to her sister and successor M.

" Lewellin :

" My dear Friend,

" It was no small disappointment to me that your
 " visit to these mansions have been deferred for some time
 " by the interest and activity of your friends. The oppor-
 " tunity you have now to amass a fine fortune (with impu-
 " nity)—any man's daughter who is endowed with beauty
 " or wit enough to make her desirable—' make hay while the
 " ' sun shines.' Mary, if any thing should happen either
 " your noble friend or your worshipful friend—you will
 " never meet their like again. Indeed it is not the peculiar
 " advantages that you enjoy from their friendship which
 " makes me happy, but that the interference of such re-
 " spectable characters annexes security, and consequently
 " is an encouragement to bold adventurers in the profes-
 " sion. It does not surprize me that my old friend Frank
 " has been soliciting your hand—That fellow would have
 " all the gambling, pawnbroking, spunging and b—dy
 " houses in Dublin if he could—but be cautious of that
 " connexion. I know your intentions are to take a house
 " beyond the limits of the city—and having your husband
 " a county magistrate you think the business may be car-
 " ried on extensively; and as you mean to do a good deal
 " in the compulsive branch, you think the more thin the
 " neighbourhood the better—very true, but surely all this
 " may be done without the marriage, since a share of the
 " profits of your business, which he has hitherto received,
 " make Frank's services certain—Why, I say, give him a
 " power over the whole profits?—as to his patronage in the
 " county, every person in country and city knows you will
 " have it: but you say gratitude impels you, because he,
 " through

" through the medium of his noble friend, saved your life—
 " I answer, they owe you more gratitude—You did not
 " 'peach—besides, do you think if you had been his wife
 " he would have saved your life?—Had you the same om-
 " niscient power I possess you'd know the contrary—but with-
 " out any supernatural knowledge there is no act of his
 " life, from the sham trick on Miss —— to the lottery, or
 " his part in your own affair, that could justify you in sup-
 " posing him capable of any thing that had a ' relish of
 " ' salvation in it.' Mother Creswell and Moll Quarles de-
 " fire to be remembered to you ; and as friends to the trade,
 " Bob Edgworth, the general—Doctor Pigeon, the quack
 " doctor—Dickey Dash, and the Justice. I am, my dear
 " sister, your's cordially.

" Darkey Kelly.

" Pluto's Regions, May 2, 1789.

" P. S. Tell his worship that it would be worth his
 " while to dress up some person to appear in his carriage
 " or to walk the streets with him, for the people in the
 " upper world remark that he is generally alone. Anne
 " Molineaux's mentioning his name in court has hurt him
 " materially, and therefore some more finesse than usual
 " is necessary."

And this deponent saith that on enquiry of and concerning
 the woman named Darkey Kelly in said publication named,
 deponent finds she was a person who about twenty-five
 years ago kept an infamous house in Copper-alley in the
 city of Dublin, and was indicted for some capital offence,
 found guilty, and received sentence of death, and she was
 burned at Stephen's-green, as this deponent is informed
 and believes, and which said letter is directed to her sister
 and

and successor M. Lewellin, a person who was lately under sentence of death in this city ; and this deponent saith that the said John Magee must well know that the said hereinbefore recited false, scandalous, malicious and defamatory publication, by associating deponent with such infamous characters, and inserting this deponent's surname at length and particularizing deponent's place of residence at Kilmacud, must materially prejudice and injure deponent in her credit, reputation and character ; yet said John Magee, in furtherance of his deliberate malice against deponent, as deponent believes, and in order to completely ruin deponent in her character and reputation, and to render deponent odious to the public, did, to give further extension to such his scandal, and cause said false, scandalous and malicious paragraph to be more universally known, on the 23d day of May last, cause or permit said letter and its purport and effect to be printed and republished in his the said defendant's newspaper entitled Magee's Weekly Packet. And this deponent saith, that in furtherance of the unprovoked malice of said John Magee to injure and ruin deponent's character, did further print and publish, or cause or permit same to be done in a certain newspaper called The Dublin Evening Post, whereof the said John Magee is the printer, as deponent doubts not to prove, a further false, scandalous and malicious paragraph, of and concerning this deponent, to wit :

“ Little Andre, the figure dancer, was wonderfully affected by the horrid contorsions of the Sham (meaning, as this deponent is informed and believes the said Francis Higgins)—the last glimmer of an expiring snuff feebly twinkled—the ghastly white eye-balls rolled as if presumptuously daring to implore mercy—mercy, while con-

“ science—

“ science—conscience smote the breast, and organized the
 “ bloated frame, and made death—horrible—most horri-
 “ ble.—Tracy (meaning this deponent, as deponent verily
 “ believes) was sent for express—she was found at Bre-
 “ nan’s at Kilmacud—Gracious Heaven!—this poor man
 “ oppressed, distressed and deserted—in the day of need—
 “ the hour of trouble—all—all—gone—Nay, his very ha-
 “ bitation converted into a receptacle for the prostitutes of the
 “ Sham! (meaning that this deponent is one of the prosti-
 “ tutes of the said Francis Higgins, as this deponent is
 “ informed and believes). Will not a day of retribution
 “ come for all this accumulation of villainy! Enormity at
 “ which the blood runs cold! Humanity starts back ap-
 “ palled! Oh! that we had a Fitz Gibbon judge—then—
 “ then would not longer the Newgate felon—the murderer
 “ of wretched parents—the betrayer of virgin innocence—
 “ the pestiferous and polluted defiler of the marriage bed—
 “ sham his fate, and defy—the laws of God and man.”

By which said false, scandalous, malicious and defamatory
 printed paragraph aforesaid, deponent is not only pointed out
 by name, but also deponent’s residence at said Brennan’s in
 Kilmacud. And this deponent further saith that the said
 John Magee, in like furtherance of his malice, and to
 blacken, injure, expose, and unjustly and falsely charge this
 deponent with being a prostitute to or kept by said Francis
 Higgins, or any other person or persons whatsoever, which
 charge is most false, scandalous and malicious, he the said
 defendant John Magee did, on the 30th day of May last,
 in another newspaper called Magee’s Weekly Packet, of
 which the said John Magee is the printer, as deponent
 doubts not to prove, print and publish, or cause or permit
 to be reprinted and published in said newspaper the said be-
 fore

fore recited false, scandalous and malicious paragraph of and concerning this deponent, and same was done in order to give a more extensive circulation to said false, scandalous and malicious publication, and to make such scandalous falsehood of and concerning deponent more universally known; and this deponent further saith, that by deponent's being so falsely and unjustly charged by name with being a prostitute, as in and by said false and scandalous publications is untruly asserted, deponent is greatly injured and most materially aggrieved in deponent's credit and reputation; and as this deponent is single and unmarried, deponent hath good reason to believe that her character and reputation is totally ruined by means of said false and scandalous publications of the defendant John Magee in said three several newspapers as aforesaid, and which false and scandalous productions of and concerning deponent, was so done against deponent by the said defendant John Magee, out of wantonness, wickedness and malice, to ruin and destroy this deponent's character and reputation, this deponent never having by her conduct or demeanour afforded any just ground or cause for such false and unjust charge, nor gave any provocation to said Magee to print or publish such scandalous, false and defamatory paragraphs aforesaid, whereby and by means thereof this deponent has been injured and suffered damage, as this deponent hath good reason to apprehend and believe, to the amount of 1000l. sterling; and saith that said defendant John Magee being a lottery-office broker, the owner of said two newspapers, is reputed to be a person in opulent circumstances.

Sworn before me this 8th day of June, 1789,

E A R L S F O R T.

FRANCES TRACY.

CHARLES LINDSEY, attorney for the plaintiff.

Let

Let a writ issue at the plaintiff's suit against the defendant for one thousand pounds.

E A R L S F O R T .

Received 25th June, 1789.

[Copy, examined by Hamilton.]

The Affidavit of Richard Daly.

RICHARD DALY, Esq;
Plaintiff.

JOHN MAGEE, printer
of the newspapers called
The Dublin Evening Post
and Magee's Weekly Pack-
et; **JOHN SHEA** and
CHARLES CAMP-
BELL, publishers of said
Dublin Evening Post; and
THOMAS BUTLER,
publisher of Magee's Week-
ly Packet,
Defendants.

RICHARD DALY of
the city of Dublin, Esq;
manager and patentee of the
Theatre Royal in the city
of Dublin, maketh oath, and
saith that John Magee of
the city of Dublin, who as
deponent believes and doubts
not to prove is the printer
and proprietor of a certain
newspaper called The Dub-
lin Evening Post, of which
said paper the said defendants
John Shea and Charles
Campbell are publishers, as
deponent believes; and saith that said John Magee is also
printer

printer and proprietor of another newspaper printed and published in the city of Dublin, entitled Magee's Weekly Packet, whereof the said defendant Thomas Butler is the publisher, as deponent doubts not to prove; and saith that the said defendant John Magee caused or permitted to be printed and published in the said Dublin Evening Post of Thursday the 28th day of May last, and in the said Magee's Weekly Packet of Saturday the 30th day of May last, a false, scandalous, malicious and defamatory publication, called A Fragment, which is of the tenor following, that is to say :

- ‘ The day had broke, the gambler’s all retir’d,
- ‘ Weigh’d down with gold, or with mad rage inspir’d,
- ‘ Dim thro’ the room a lamp but barely shone,
- ‘ Where sat young Roscius, fullen and alone.
- “ And is it come to this, at last ?” he cry’d,
- “ Gone is the food of all my former pride ;
- “ No more will actors on my steps attend,
- “ Or humble actresses obedient bend.
- “ No more will authors at my levee wait,
- “ No more I’ll damn their works in pompous state—
- “ No more shall B—ll—ng—n’s frail charms avail ;
- “ And now no stage is left me but a gaol.
- “ Ev’n now, perhaps, with joys does Ch—lm—r’s burn,
- “ And Ow—nf—a will kick me in his turn.
- “ No more will H—lt—n watch with studious care,
- “ Ev’n now he frown with supercilious air.
- “ Francisco now delights th’ admiring throng,
- “ And —rn’s joins his tributary song.
- “ All—all to him with eager haste are gone,
- “ And strive who first shall meet the rising sun ;

E

“ Yet

" Yet this shall end my woes and me," he cry'd,
 " And drew his glitt'ring weapon from his side ;
 " But as too hard the yielding blade he prest,
 " The tragic tin bent harmless on his breast ;
 " Full often used to kill upon the stage—
 " And end some fiery hero's bombast rage.
 " Tho' it could stab the rugged Cato there,
 " It could not hurt its flinty master here.
 " Enrag'd he cast aside the faithless tin,
 " When Venus' nimble-footed son came in :
 " Presumptuous boy, (he cry'd) who sends you here ?"
 " I bring (said he) glad tidings to your ear ;
 " That you may be a manager once more,
 " And bully actors as you've done before."
 " Rous'd at the word, he gave a tragic start,
 " That shew'd the real feelings of his heart.
 " And shall I have again my darling sport ?
 " Shall authors once again protection court ?
 " Shall I with rule be once again empower'd,
 " And shew my valour on each wretched coward ?
 " Shall I—but tell me of the news you bring,
 " And all the green-room with your praise shall ring.
 " And shall I once again be known to fame—
 " Again the Freeman trumpet forth my name ?
 " But hold—perhaps my joy is premature,
 " Perhaps I'm destin'd always to be poor.
 " Say—does some lady court me to her arms,
 " And buy with yellow gold my manly charms ?
 " Or do the dice"—thus far he had got on—
 " Thus answer'd Venus' nimble-footed son :
 " There live (he said) some men to Fame well known
 " For punctual dealings, and to candour prone ;

" The

" The wights have money—many a lab'ring year
 " Have seen them daily with the sun appear ;
 " But this for your audacious soul remains,
 " To reap the fruits of long industrious pains.
 " Tho' punctual honesty directs their course,
 " Yet honesty 'gainst cunning has no force ;
 " We'll fleece the villains by this nimble bird,
 " We'll bleed their purse"—he scarce had spoke the
 " word—

" I know the wily plot," Richardo cry'd,
 " The Doctor in these schemes is fully try'd ;
 " Well skill'd is he to anticipate the post ;
 " He made the Corkists know it to their cost."

" He now proceeds to impart the plot to Francisco and
 " the Doctor :

" They shout applause ; the Doctor thus began—
 " Oh happy—fortunate—audacious man !
 " For once I must confess you beat me here,
 " My groveling spirit could not mount the air ;
 " Content with speed to urge the wretched hack,
 " I merely brought the tawney burden back ;
 " But you attempt an height almost divine,
 " And Mexico shall open ev'ry mine."

" ————— The scheme they next dispose,
 " And with his nimble charge the Doctor goes ;
 " Swift flew the vessel out before the wind,
 " And the receding land soon left behind ;
 " Soon then they see the lofty Cambrian shore,
 " And the rude waves a surly welcome roar.
 " He lands, with him the post-chaise rattling flew,
 " And fair Augusta's spires appear in view ;

- ‘ Then straight to that enchanted fane he hi’d,
- ‘ Where Chance and Fortune mutually preside.
- ‘ Now turns the lab’ring wheel, and from on high,
- ‘ Her Priests, the cabalistic numbers cry ;
- ‘ The Doctor soon the words mark’d down, and round
- ‘ The Pidgeon’s neck the wond’rous charm he wound ;
- ‘ Instant thro’ air she took her winged way,
- ‘ And from above, behold the extended sea :
- ‘ Was there no fowler then to take his aim,
- ‘ And save from infamy Richardo’s name ?
- ‘ Was there no hawk the fatal bird to tear,
- ‘ And strew her feathers floating to the air ?
- ‘ Hush were the tempests of the furling deep,
- ‘ And even the watchful WOLF DOGS were asleep.
- ‘ Alas ! too safe the gainful news she brings,
- ‘ And on Francisco’s portal plumes her wings.’

Saith that he this deponent is the person meant and intended by the name of Roscius and Richardo, as deponent doubts not to prove ; and saith that previous to the publication of the said false, malicious, and herein-before recited scandalous production aforesaid, several other equally false, scandalous, malicious, libellous and defamatory productions and paragraphs were inserted and published in the said two several newspapers, of and concerning deponent, by which deponent was, as well as by the last above-recited publication, given out and denoted as a gambler, a cheat, and a person impoverished in his circumstances, and not worthy of credit. And this deponent saith that he the said defendant John Magee did, in furtherance of his malice against deponent, and to ruin this deponent in his credit, character and reputation, and with an intent to render more public and extensive the circulation of such false,

false, scandalous, malicious and defamatory publication, did on Saturday the 30th day of May last past, cause, procure and admit to be printed and re-published in a certain newspaper called Magee's Weekly Packet, of which he the said John Magee is the printer, the said herein-before recited poem or fragment of and concerning this deponent, and with an intent to destroy deponent's credit and character. This deponent saith that he is the owner and director of the theatres in the cities of Cork, Waterford and Limerick, and in several towns as well as the town of Newry, as well as the said Theatre Royal, Crow-street, in the city of Dublin, in the rebuilding and repairing and fitting up said Theatre Royal, and other incidental expenses respecting said Theatre Royal, deponent hath lately expended the sum of 12,000*l.* sterling and upwards; and deponent also undertakes the annual payment of several large and considerable sums of money, and otherwise, in the discharging of which deponent has hitherto preserved punctuality, and by deponent's fair dealing deponent hath hitherto supported his credit and good repute. Saith that deponent, from the nature of deponent's situation as owner of said several theatres in the cities of Dublin, Cork and elsewhere, deponent is obliged to hold a constant intercourse of dealing in the city of London, as well as other different parts of Great Britain, where the said newspapers called The Dublin Evening Post and Magee's Weekly Packet are circulated, as deponent is informed and believes, as also in several other towns in Ireland; and this deponent further saith, that by means of the said several false, malicious, scandalous and defamatory publications, holding forth deponent to the public view as a gambler, committing fraud and using dishonest art to accumulate gain, as also that this deponent is
a person.

a person in poor and necessitous circumstances; and saith that by said several false misrepresentations and other scandalous productions published of and concerning this deponent, that deponent hath already experienced the injurious tendency thereof, as a very eminent performer, who was retained by deponent in Great Britain to act at said Theatre Royal in this city, did, from the false, scandalous publications against deponent, express a doubt of deponent's credit and punctuality, and that therefore a large and considerable sum must be paid in advance by deponent to such performer; and saith if it had not been for the immediate interference of some of deponent's friends then in the city of London, deponent would have been deprived of the advantage of such performer, which transaction this deponent was unacquainted with until Saturday the 6th day of June instant; and saith it is a most wicked and malicious falsehood that this deponent hath used any dishonest means or art to accumulate money, as untruly insinuated by such scandalous publications, nor does this deponent subsist by gambling, nor is the charges contained in such several false, scandalous publications in any manner true, but by means whereof this deponent is materially injured in his good name, fame, credit and reputation; and saith that this deponent hath a large family of children, particularly four growing up daughters, who from such recorded false, scandalous and malicious publications respecting their father, wherein deponent is depicted as a cheat, a gambler, and of infamous character, they in their future prospects of life may receive considerable injury, as also deponent's sons, from such false, scandalous and malicious misrepresentations of and concerning this deponent, so printed and published by the defendant John Magee as aforesaid, as deponent hath

hath good reason to be convinced he is by such unprovoked, unmerited, false and scandalous publications as aforesaid, and hath thereby suffered damages therein to the amount of 4000l. sterling and upwards; and saith that he hath heard and believes that the said John Magee is a lottery-broker, and the proprietor of the said several newspapers, and that the said John Magee gives out that he is a man of very considerable property, as well in his money as in the said several newspapers.

Sworn before me this 12th day of June, 1789,
EARLSFORT.

RICHARD DALY.

CHARLES LINDSAY, attorney for the plaintiff.

Let a writ issue at plaintiff's suit against defendant, marked four thousand pounds,

EARLSFORT.

Received 25th June, 1789.

F I N I S.

I am good enough to be convinced he is the best man for the
position. His qualifications are excellent.
and with every facility I have to the support of
good feeling and respect; and this is the best
and better than the old John Jones is a foreigner
and the proprietor of the old John Jones and that
the old John Jones is a man of very
considerable property as well as his money in the old
John Jones.

From the fact that this is the best man for the
position.
RICHARD D. JONES

CHARLES L. JONES, Esq., is the best man for the
position.
I am a man of
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N. A. J. JONES
Respectfully,
N. A. J. JONES

